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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,270	01/08/2004	Anatoly Feygenson	225265	6572
23460 7590 05/12/2009 LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731				
EXAMINER				
CASLER, TRACI				
ART UNIT		PAPER NUMBER		
3629				
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05/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/753,270

**Applicant(s)**

FEYGENSON ET AL.

**Examiner**

Traci L. Casler

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

This action is in response to papers filed on February 9, 2-9

Claims 16-17, 19 and 21 have been amended.

Claims 1-15 have been withdrawn.

Claims 16-32 are pending.

Claims 16-32 are rejected.

***Claim Rejections - 35 USC § 101***

5 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof,, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16-32 are rejected under 35 U.S.C. 101 because the claims do not limit any process step to any specific machine/apparatus or transformation of an article. The machine or transformation test is a two-branch inquiry; an applicant may show that a process claim satisfies 101 either by showing that his claim is tied to a particular machine or by showing that his claim transforms an article. Furthermore, the use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility. Second, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. (See *In re Bilski*)

***Claim Rejections - 35 USC § 112***

1. Claims 21-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are directed to the identification of an "independent individual contractor". One skilled in the art would not reasonably convey that a potential candidate for an employer would be understood to be an "independent individual contractor". Applicant fails to disclose a contractor as a candidate therefore leaving the claim limitations narrower than that of the specification.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,567,784 Bukow; Method and Apparatus for Matching Projects and Workers. Hereinafter referred to as Bukow.

4. As to claim 16 Bukow discloses:

Determining necessary tasks to be performed(C. 1 I. 33-37).

Submitting the need for someone to perform the certain tasks that are capable of being performed over the internet(C. 2 I. 60-65).

Choosing a candidate that meets the requirements of the task(C. 3 I. 34-40).

Negotiating pay for the task(C. 5 I. 63-67).

Paying the candidate the negotiated price(C. 3 I. 34-40).

5. As to claim 17 Bukow teaches the applicants having certain credentials(C. 5 I. 20-29).
6. As to claim 18 Bukow teaches indirectly determined applicant pool(C. 8 I. 22-26).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 19 and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,567,784 Bukow as applied to claims 16-18 above, and further in view of [www.medquist.com](http://www.medquist.com); retrieved from the wayback machine; any linkage June 8, 2003.

Hereinafter referred to as Medquist.

10. As to claims 19 and 21 Bukow teaches

Determining necessary tasks to be performed(C. 1 l. 33-37).

Submitting the need for someone to perform the certain tasks that are capable of being performed over the internet(C. 2 l. 60-65).

Choosing a candidate that meets the requirements of the task(C. 3 l. 34-40).

11. However, Bukow fails to teach receiving the complete work from the applicant and paying the applicant.

12. Medquist teaches receiving the completed work at the clinic(Pg. 18 ¶B)

13. Medquist further teaches paying the applicant for the amount of work completed.(Pg. 14 ¶G). It would have been obvious to one of ordinary skill in the art to pay the user for the work completed as this is a normal practice in any business environment. If payments are being made for work done the work will cease to be complete.

14. As to claims 22-27 Bukow fails to teach the atomic unit of work being a reviewing a document for typographical error. Medquist the work being reviewing dictation with accuracy. The examiner notes the type of atomic work that is being performed or the information it is being performed on is non-functional descriptive data. The method of

identifying a qualified candidate to perform the atomic unit would be performed the same regardless of the type of work being requested.

15. As to claims 28 and 29 Bukow teaches the specific criteria requested in order to perform the task being requested.(C. 2 I. 66-67) C. 3 I. 1-2). Again, the applicant notes that the type of criteria being requested is again non-functional descriptive material. It would be an obvious variant to use different criteria needed depending on the difference in tasks needed to be completed.

16. As to Claim 30 Bukow teaches criteria as certification levels(C. 3 I. 10-12).

17. As to claims 31-32 Bukow teaches criteria a level of previous experience.

### ***Response to Arguments***

1. Applicant's arguments filed February 9, 2009 have been fully considered but they are not persuasive. Examiner notes the response presented in the Examiners Answer mailed 12/09/2008 are maintained in this action in response to applicants arguments.

2. As to applicants arguments and amendments to overcome the 35 USC 101 rejections the applicants amendments and arguments are not sufficient to overcome the 101 rejection. Applicants attempts to amend the claims to include a "machine" that is performing the claim is insufficient. The limitations that were added do not impose "meaningful" limitations on the scope of the claim. The machine is not being claimed to be transforming or controlling the inventive concept. As currently claimed the machine

is simply sending and receiving information which fails to set meaningful limits on the claims scope. The machine is deemed to simply be insignificant extra-solution activity.

### ***Conclusion***

3. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Traci L Casler/  
Examiner, Art Unit 3629

/JOHN G WEISS/  
Supervisory Patent Examiner, Art Unit 3629